

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
SAFETY AWARENESS BOARD
1511 PONTIAC AVENUE
Building 70 – 2nd Floor Conference Room
Cranston, RI 02920**

WEDNESDAY, AUGUST 8, 2007

In attendance: Nicholas Giardino

Bernard Trembl

Timothy Byrne

Robin Coia

Karl Swanson

**Not in attendance: Eric Anderson, Wayne Coulombe, James Jackson,
Joseph Sabitoni, Edgar Ladouceur**

**Legal Representation: Ben Copple, RIDLT and Denise Choquette
representing Gilbane Building Company. Also present was Ronald
D'Ambruoso of the RIDLT**

**Mr. Bernard Trembl called the meeting to order at 8:12 am. There was
no Quorum today. Mr. Trembl informed Denise Choquette, Esquire and
Robert Vierra, Project Manager for Gilbane that testimony could be
taken today, or they could come back at our next meeting when there**

is a Quorum, since we can take testimony, but would not be able to make a recommendation to the Director until our next meeting. Denise Choquette, Esquire and Robert Vierra decided they wanted to give testimony today. They were sworn in by the Board stenographer.

There was one hearing for today.

1. Gilbane Building Company – Violation #3212

Karl Swanson read the violation: On May 23, 2007, RIDLT Investigators, Lisa Tirocchi and Karl Swanson visited the New Youth Assessment Facility, Power Road, Cranston, RI and interviewed Robert J. Clark and Robert L. Vanbiber, Jr., employees of Masonry Cosmetics, Inc. These individuals were working at the above job location without an OSHA-10 hour Certification. This is one (1) violation of RIGL 37-23-1 “Safety Awareness Program Required.”

Testimony was taken from Denise Choquette, Esquire for Gilbane Building Company and by Mr. Robert Vierra, Project Manager for Gilbane. Materials were passed out to Board members and Legal Counsel regarding information pertaining to the Safety Plan – New RI Training School for Youth), page 6 of Gilbane rules and regulations stating:

1. That the name and resume for each Contractor's project-site safety coordinator will be provided to the Gilbane for review prior to the Contractor starting work at the project site.

2. Ensuring that prior to the start of any work activity, every foreman has reviewed each task assignment with every affected employee to assure a comprehensive understanding of the safety requirements and precautions to be taken while performing this work.

3. Each safety coordinator shall participate in accident and incident investigation involving their work and employees of those of their subcontractors.

4. Site safety coordinators are required to attend and provide proof of completion of an OSHA-10 hour Hazard Recognition Course or approved equal prior to starting work on the project.

5. For projects in the State of Rhode Island Rhode Island, each Contractor will complete and submit the OSHA-10 hour Safety

Awareness Training Compliance Affidavit (Appendix E) form provided by Gilbane.

6. All personnel working on the site are required to attend and complete an OSHA-10 hour Construction Safety and Health Training Course. Personnel are required to present their card issued by OSHA certifying course completion to the Gilbane Superintendent prior to beginning work on site and are required to have their card on their possession at all times they are on site. All must have current licenses.

7. Gilbane will maintain copies of all OSHA Training Course cards and all licenses in the Gilbane jobsite office.

8. Personnel for whom required copies are not on file in the Gilbane office are not permitted to work on site.

Denise Choquette, Esquire passed out the sign-in sheet from Gilbane Building Company (on the date of incident, May 23, 2007 and an Appendix E – OSHA 10-hour Awareness Training Affidavit for Domingos DaCosta, President of Costa Brothers Masonry, Inc. to certify that they successfully completed the OSHA 10-hour Construction Safety Training Program as required by RIGL 28-20-35.

Denise Choquette, Esquire stated that it is significant to note that Gilbane is the Program Manager with respect to this project; thus, the State of Rhode Island, not Gilbane, holds all of the trade contracts on this job (which she had a copy of).

Denise Choquette, Esquire also stated that Gilbane is not responsible for the failure of these two individuals to have required 10-hour certification training card. Indeed, based on the factual allegations contained in the violation itself, it is clear that there is no legal basis to support a finding that Gilbane violated RIGL 37-23-1, since the two individuals identified in the violation were not Gilbane employees and that Masonry Cosmetics, Inc., their employer, was not performing any work under a contract with either Gilbane or the State. The language of 37-23-1 clearly states that “all contractors performing work on municipal and state construction projects.....shall have an OSHA 10 hour construction safety program for their on site employees. The applicable rules define “on site Employee” as any private person or entity bound by contractual agreement to provide goods or services to a contractor/developer that must physically enter the place where work is being performed or business being conducted. Thus, there can be no question that these two individuals were not on-site employees of Gilbane, since they are employed by Masonry

Cosmetics and entity that is not bound by a contractual agreement with either Gilbane or the State. These two individuals were not authorized to be on site, since they never identified themselves to Gilbane or registered at Gilbane's jobsite office, which is a site regulation that Costa Brother's is well aware of.

Mr. Robert Vierra stated that Lisa Tirocchi and Karl Swanson could have reviewed the files in the jobsite office, had they asked to do so.

Mr. Bernard Trembl advised Denise Choquette, Esquire and Robert Vierra, Project Manager that after hearing the testimony today, a transcript will be sent to other Board members and a recommendation by the Board at our next meeting (or when there is a Quorum) will be made to the Director and they will be receiving a letter in writing.

There was no further business before the Board. Board meeting was adjourned at 8:30 am.

Minutes respectively submitted by Elaine Heiss, August 8, 2007.

The next Safety and Awareness Board meeting will be held on September 12, 2007 at 8:00 am.